

THE
EVASION OF PAYMENTS
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DUE TO THE
S T A T E
ON ACCOUNT OF
CUSTOMS AND EXCISE,
CONSIDERED IN A
D I S C O U R S E
O N
EXOD. xx. 15.
THOU SHALT NOT STEAL.

C A M B R I D G E :

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M. DCC. LXXIX.



EXOD. xx. 15.

THOU SHALT NOT STEAL.

IT is generally acknowledged that the commandment, thou shalt not steal, is a reasonable one, and that it is our duty to behave agreeably to it in every case which is applicable to it.

HENCE there arises an obligation to enquire concerning certain actions whether they are conformable to this rule or not.

It may seem perhaps at first sight to be so easy a matter to discern between what is stealing and what is not so, that we are in no danger of making mistakes about it.

AND yet we frequently meet with persons who are supposed to be in general fair and upright in their dealings, whilst they

are in some instances guilty of committing this crime wilfully and habitually.

Now it would be uncharitable to suppose that these men do not deserve the good name they have acquired; that they have deceived the world, and notwithstanding appearances, are ready to act a dishonest part whenever they can do it without prejudicing that character which it is their interest to support.

AND therefore I shall take it for granted, that their misconduct in these cases is owing to the want of due attention to the nature of their actions; from whence it happens that they break the law without being conscious of their guilt; and I shall in this discourse address myself to certain persons, who appear to me to be faulty in this way, in order to dissuade them from a practice which they, though otherwise truly respectable, are too plainly chargeable with.

FIRST I would offer some general observations relating to the subject.

LAWs against stealing must presuppose an exclusive right of property: for were all things common, no one could be said to steal any thing from another.

OF the methods of acquiring property some are founded on the laws of nature, others on the laws of civil society: and it is observable that many rights of property which are commonly supposed to be of the former kind are really of the latter.

THUS for instance it may seem to those who have not much considered the point, that people have naturally a right of disposing of their possessions by will. And yet it is generally allowed by writers on this subject, that this right is founded on political principles. In the early ages men had probably no idea of it. Afterwards, when the interests of civil society were well understood, it was seen that this right would on many accounts be of service to the state. But still it was subject to the control of the civil power: and accordingly it appears in a different form in different states, and has from time to time been regulated and limited as the good of the community seemed to require.

THE same thing may be observed concerning many other unquestionable rights of property: Though they may appear to be founded in nature, yet they are in truth

derived from the appointments of the civil magistrate.

BUT if the state hath authority to create and regulate rights of property, it is reasonable that it should sometimes exert this authority for the purpose of its own support. Its wants must be supplied; otherwise it will be dissolved, and anarchy and confusion be the dreadful consequences. If therefore its present possessions be insufficient, new property must be acquired. This has been the case of the state to which we belong. Formerly it had many sources of supply which no longer exist. The crown was in possession of demesne lands producing a very large revenue: But these are now almost intirely alienated. Great sums were raised by fines imposed in courts of judicature, by forfeitures of various kinds, reliefs, wardships, and several other means. But these supports have either wholly or to a great degree fallen into disuse, whilst the necessary expences of government have very much increased. And therefore it is fit that the state should provide for itself fresh supplies of a kind suitable to its constitution, and adequate to its occasions. Accordingly

cordingly the supreme power has from time to time enacted such laws as seemed best adapted to this purpose; and the state has acquired a strict right of property in the particulars by these laws assigned to its use, founded upon the same principles and authority with many other rights which are universally acknowledged and acquiesced in: And it is as necessary to exert this right, and as far as may be, to preserve it from violation as the right to any private property whatever. The very existence of the state depends upon it. And every one sees that if that were dissolved, the ruin of private property would soon follow.

Now amongst the methods made use of by government to raise the supplies necessary for its various purposes, one is that of imposing duties on particular articles of consumption. And this being done, the sum which is or ought to be payed for each of these articles may be conceived to consist of two parts, of which one belongs to the possessor of the article, and the other to the state.

SUPPOSE then first that some one by violence or fraud takes away an article of this kind

kind from the possessor without paying any part of its value. In this case every one allows that the commandment of the text has been transgressed, and is ready enough to call the man who has done this a thief.

BUT let us imagine secondly that so much of the price as is private property is paid, whilst that part of it which belongs to the state is with-held.

Is the purchaser in this case intirely free from the crime of stealing? If I take away the right of one of the joint proprietors, without making proper satisfaction, may I still be looked upon as an honest man, because I have not taken away that of the other too? The material difference between the two cases is this, namely, that in the first there is a theft committed upon the two parties, in the second upon one only. The offender does not steal so much in the latter case as in the former; but still he is guilty of stealing, and is therefore a criminal in the idea of the state, and a sinner in the sight of God.

Thus far it has been supposed that the offender has been immediately concerned with

with the state, and ought to have satisfied its lawful demands separately from those of the possessor.

But the crime will not be materially altered in its nature if it be committed by the intervention of, and in conjunction with, another; and we may secondly suppose the case to be thus:

The intention of the legislature is that you shall pay the whole price of the article consisting of the sum due to the possessor, and that due to the state. But that the business may be more readily transacted, it is ordered that the latter sum shall be paid by the possessor, who shall thus become sole proprietor before he disposes of the article.

If now the possessor does, in violation of this appointment, dispose of the article without discharging the debt due to the state; and if in consequence of this fraud you receive it from him, paying only one part of its price; in this case the state is robbed; the sum it is robbed of remains with you; and therefore (whether you are called a thief or a receiver of stolen goods, it matters not) you are to all intents and
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purposes guilty of stealing. But in this latter case there is an aggravation of the offence which ought to be very seriously attended to. Thus you encourage others in their wickedness; you combine with ignorant or abandoned men with a view of cheating the state; you tempt them to continue in a course which leads sometimes to robberies of other kinds, and sometimes even to murder.

CAN you without shame and confusion consider yourself as an encourager of, and a confederate with, such wretches as these?

CAN you hear of their engagements with the officers of the crown, frequently attended with cruelties, blood-shedding and death, without shuddering at the thought of your being concerned with the perpetrators of these horrid facts, and in a considerable degree answerable to God for the mischiefs which they occasion.

BUT let us consider the matter in another view.

CERTAIN supplies must every year be raised for the various exigences of the state. If a tax imposed upon any article towards that purpose does not produce so much as

it

it otherwise would have done, through the practices of smugglers and those who deal with them, the deficiency must be made up by a charge upon some other article or articles. But those individuals who are obliged to contribute (as every individual does, who on this account pays an extraordinary sum for any article) towards the making up of this deficiency, may fairly be said to be robbed of so much money by the persons whose frauds have occasioned it. And thus many an indigent and laborious man has cause to complain, that the difficulty of supporting himself and family, is augmented by the dissingenuous behaviour of his fellow subjects, who refuse to contribute their proportional part towards the maintenance of that government under which they live and are secure, whose various benefits they, however undeserving of them, continually enjoy.

BUT it is proper now to enquire from what cause or causes it happens that the property of one of these parties is so much oftener violated than that of the other, and whence it is that some persons are exact in discharging their debt to the possessor, and

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yet do not scruple to deprive the state of its due.

Now the readiest way of explaining this matter would be to say, that the state may in many instances, easily be deprived of its right with impunity. Nobody looks on whilst its property is transferred, and takes good heed that it be not cheated. Whereas the other joint proprietor does himself transact his own business; and to steal from him might bring a man under the disagreeable necessity of suffering certain pains and penalties of the law: And where, it may be said, is the wonder if the same person ventures to steal when there is but little danger of punishment, and is afraid of doing it when he sees that it would probably be the occasion of his being sent to Goal?

AND should it be allowed that this way of arguing is applicable to all cases, no doubt it would cut the matter short, and there would be no occasion for making farther inquiry about it. But because this account of the affair proceeds upon that uncharitable supposition above mentioned, namely, that every one who is guilty of this offence is a person of dishonest principles,

ples, and ready to act consistently with them, whenever he thinks it to be for his worldly interest to do so, therefore it must not be admitted. Nor is there any occasion to have recourse to it, because the difficulty may be got over in another and a better way; that is, by imputing these transgressions, not so much to the wickedness, as the mistakes of the transgressor.

THE property in these cases taken away, is not that of a single person but of a collective body: Whence it happens that the persons injured are not precisely marked. The offender has to do with a kind of imaginary Being, of which he has but a very confused idea, and he is not conscious of a wrong done to this or that individual.

THE state may in the imagination of some be too opulent, as to be but little affected by its losses in this way; and the persons of which it is composed being so many, the damage sustained by each of them, may appear to be inconsiderable.

IF this crime be very commonly committed in any country, its inhabitants may not view it in the same light in which it is seen by those who have observed fewer in-

stances of it. They have known perhaps, even from their childhood, those amongst whom they live, very frequently guilty of it. They were never taught to hold it in detestation by their parents, who though sufficiently careful to warn their children against every other species of theft, were yet so far from warning them against this, that they led the way to it by their own bad example. Their spiritual Directors, though studious to shew themselves approved unto God, workmen that need not be ashamed, have yet been silent on this head; believing perhaps that the disease is too inveterate and confirmed to admit of a remedy, or fearing a misapplication of the proverbial taunt, Physician heal thyself.

THUS they were trained up in this practice: It became habitual to them before they could distinguish right from wrong; they were never reprov'd for the commission of it; and they are as insensible of the turpitude of it, as an inhabitant of Otaheite is, of that of stealing in general.

AFTER these particulars have been duly attended to, it will be possible to conceive, that even persons of education, and in
other

other instances of probity, may sometimes have descended to so base a traffick.

BUT here let us be careful to guard against mistakes. We have indeed endeavoured to account for the frequency of transgressions of this kind, without supposing that every one who has been guilty of them, is a person of principles uniformly bad: But it is clear that what has been just now said, is only an attempt to vindicate some of the offenders in this way from the imputation of a general tendency to stealing: And this vindication is grounded upon a supposition, not that there has been no fault at all, but that it has been a fault of the head, not of the heart.

To think that the state is not materially affected by this illicit commerce, is mistaking the matter very much. It is carried on more or less in almost every part of the Island. In many of the counties bordering on the sea, it is, as to some articles, almost universal.

THEN so far is the state from being in an opulent condition, that much sagacity and contrivance is necessary to prevent its sinking under the weight of its debts.

I am willing to make as great allowance as may be, for the imperfect conceptions of men, in cases where clear and precise ones are not to be obtained without much thinking; and readily allow that our notions of things do very much depend upon education and custom.

BUT what would you infer from thence? Surely not that you may still proceed in the ways of injustice, without inquiring where you are, and whither you are going.

RATHER listen to the voice which warns you of your error, and would direct you to truth, and make use of the understanding which God has given you, to free your mind from prejudice and evil habit; to examine with a critical exactness, every part of your behaviour, and make it conformable to the rules of reason and religion.

IMAGINE not, I beseech you, that this is a subject unworthy of your attention: It behoves you to consider it seriously and impartially, for your most important interests are concerned.

